



County of Surry Virginia Planning Commission Meeting Minutes January 24, 2022

MEETING CONVENED: The meeting of the Surry County Commission was called to order at 7 PM on Monday January 24, 2022, in the Surry County General District Court, 45 School Street, Surry, Virginia by Mr. Eddie Brock, Chairperson.

ATTENDANCE: The following members respond to Roll Call Present:

Mr. Eddie Brock, Chairperson
Ms. Judy S. Lyttle
Mr. Giron Wooden, Jr.
Mr. Theodore Lunsford
Mr. Earl Newby, Sr.
Mr. Stephen Berryman
Mr. David Coggin
Mr. William Seward, IV
Ms. Dianne cheek
Ms. Carmen D. Judkins

Absent:

Mr. Thomas Hardy

Also present were Mr. Horace Wade, Director of Planning and Community Development. Ms. Regina Hilton, Administrative Assistant; Mr. Lorenzo Turner, Planner; Ms. Sarah Seward; Greg Davis, Kaufman and Canoles Law Firm; Jamie Weist, Kimley-Horn; Nick Roberson, Kimley-Horn; Danielle Power, Esquire

PLEDGE OF ALLEGIANCE: All

APPROVAL OF THE MEETING AGENDA:

Chair Brock requested a motion to adopt the meeting agenda as written. Moved to approved by Mr. Newby and seconded by Mr. Seward.

In Favor: (10) Wooden, Berryman, Brock, Lyttle, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.
Opposed: 0
Abstain: 0

NOMINATION OF CHAIR AND VICE CHAIR:

Chair Brock requested a nomination of for chair and vice-chair. Mr. Wooden nominated Mr. Eddie Brock for chair and was seconded by Mr. Lunsford.

In Favor: (9) Wooden, Berryman, Brock, Lyttle, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.

Opposed: 0

Abstain: (1) Brock

Mr. Lunsford nominated Mr. Wooden for vice chair and was seconded by Mr. Berryman.

In Favor: (10) Wooden, Berryman, Brock, Lyttle, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.

Opposed: 0

Abstain: 0

APPROVAL OF CONSENT ITEMS:

Mr. Brock asked for approval of the three consent items: 1) the disposition of the minutes for November 22, 2021; 2) Planning Commission bylaws; and 3) the meeting dates for 2022. Ms. Cheek asked that the minutes be deferred until the next meeting for correction and less detail. Ms. Cheek moved to defer the November 22, 2021 meeting minutes and was seconded by Mr. Newby.

In Favor: (10) Wooden, Berryman, Brock, Lyttle, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.

Opposed: 0

Abstain: 0

Next consent item is the Planning Commission bylaws. Ms. Cheek recommended the consent item be reviewed at the end of the meeting because of it's a timely item. Motion made by Ms. Cheek and seconded by Mr. Seward.

In Favor: (10) Wooden, Berryman, Brock, Lyttle, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.

Opposed: 0

Abstain: 0

Last consent item was the meeting dates of 2022. Mr. Seward made to motion to approve the 2022 meeting dates and was seconded by Mr. Newby.

In Favor: (10) Wooden, Berryman, Brock, Lyttle, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.

Opposed: 0

Abstain: 0

NEW BUSINESS – PUBLIC HEARING:

1. **General Project Description:** Surry Solar Center, LLC proposes to construct a 20 megawatt (alternating current) photovoltaic solar energy generation facility on approximately +196 acres of a + 225.76 acre parcels located south of Bacons Castle Trail, north of Hog Island Road, and east of Colonial Trail West/SR 10. The project infrastructure will consist primarily of UL listed solar photovoltaic panels, DC to AC inverters, voltage transformers, security fencing and a meter and attachment line to interconnect with existing transmission system. The project involves the Tax Map Parcel 43-58F. The Comprehensive Plan indicates the property is suitable for Rural Preservation.
- A. Comprehensive Plan Map Amendment No. 2022-01**
The Applicant, Surry Solar Center, LLC, seeks a map amendment to the Development Plan Map of the Surry County Comprehensive Plan to reflect that the property is suitable for General Industrial use. The project consists of one parcel which is zoned A-R, Agricultural Rural District, and will be located south of Bacons Castle Trail, north of Hog Island Road, and east of Colonial Trail East/SR 10. The property is the subject of Rezoning Application No. 2022-01.
- B. Rezoning Application No. 2022-01** The Applicant, Surry Solar Center, LLC, seeks to rezone +225.76 acres from Agricultural Rural District (A-R) to General Industrial District (M-1) to permit a solar utility use. The project consists of one parcel which is zoned A-R, Agricultural Rural District, and will be located south of Bacons Castle Trail, north of Hog Island Road, and east of Colonial Trail East/SR 10.
- C. Conditional Use Permit No. 2022-01** The Applicant, Surry Solar Center, LLC seeks a conditional use permit for a solar generation facility in Surry County. The project consists of one parcel which is zoned A-R, Agricultural Rural District, and will be located south of Bacons Castle Trail, north of Hog Island Road, and east of Colonial Trail East/SR 10. The proposed CUP includes conditions to mitigate any adverse effects of the proposed facility to the affected parcels and immediately adjacent parcels as well as facility decommissioning.
- D. Substantially in Accord Determination** Pursuant to Virginia Code Section 15.2-2232(A), Applicant, Surry Solar Center, LLC seeks a determination that the Project, as defined in Conditional Use Permit Application No. 2022-01, is substantially in accord with the Surry County Comprehensive Plan for the proposal to construct and operate a solar energy facility. The project consists of one parcel which is zoned A-R, Agricultural Rural District, and will be located south of Bacons Castle Trail, north of Hog Island Road, and east of Colonial Trail East/SR 10.

Mr. Wade presented the staff report and made the following comments:

- The property is currently suitable for preservation.
- The site map issued by the applicant shows the buffers, entrance to the property from Hog Island Road instead of Bacon Castle Road.
- The applicant held two community meeting in which only one was required. Citizens' concerns were the screening or proximity to the historic property and screening for residential noise and the location of the new poles. The setback from Hog Island Road would be 168' minimum and exterior property lines and residential would be 150 feet and from Bacon Castle Church, the

setbacks would be between 420 to 450 feet. Bacon's Castle Trail would be 265 feet with minimum buffering.

- The required process for approval of this project would be a comprehensive plan amendment, a conditional rezoning the project is either M1 or M2.
- There is also the review of the file .2-2232 in which the staff recommend that it should be postpone or defer until has been reviewed by the Board.
- The strength of the project is that the setbacks and buffers is greater than what is stated for M1. The project is adjacent to a major thoroughfare and most of the parcel isn't composed of prime agricultural land and industrial use would expand the county's tax rate.
- The weakness of the project is that it is within view of Bacon Castle. The project is within two and a quarter mile from another solar farm.

Mr. Greg Davis of Kaufman and Canoles Law Firm, attorney for the applicant and was accompanied by Billy and Hugh Epps, the property owners. Mr. Davis presented the following update from the December work session.

- The project is a 20 megawatt facility which is very small and will be providing local power. The power will not be connected to the PGM grid but would be connected to local distribution lines and serve Surry residents.
- The project will have a 265' setback from Bacon Castle Trail. The panels would be 420 feet from the church property until the beginning of buffer.
- Pine Gate hired a public relation firm which made 700 phone calls and knocked on 150 doors to inform the residents of the project.
- There will be plenty of room on the site for delivery trucks to leave Hog Island Road and for parking and unloading.
- Strata Solar Project previously provided the training for the volunteer fire department.
- Eight-foot tall plantings will be planted next to the fence.
- Henrico historic savage's station Civil War Battlefield in next to a solar farm. A 6,350 acre solar facility was approved by Spotsylvania which borders the historic wilderness Chancellorsville and Spotsylvania Courthouse Battlefield.
- The project will bring \$800,000 in real estate taxes over a period of 40 years. The county will be paid \$1.7 million over the lifetime of the project and \$100,000 cash payment at the startup of the project.

Questions and comments from the Commissioners and Mr. Epps:

- Ms. Cheek asked the applicants if they have spoken to all the property owners. Mr. Davis stated that the public relation firm was directed to knock on everyone's door and reported that this was complete although some residents may not have been home to answer the door.
- Mr. Berryman asked the acreage of panel. Mr. Davis stated 190 acres will be occupied by panels.

- Mr. Wooden questioned if the proposed area of panels is under cultivation or previously under cultivation. Mr. Davis stated it was previously but not as of today.
- Mr. Berryman asked if the entire parcel would be rezoned M-1 and if the family would be able to subdivide in the future. Mr. Davis answered that it would be rezoned M-1. Mr. Wade stated that residential lot will not be permitted in a M1 zone. It would only be silviculture or agricultural if it is not being used as solar.
- Mr. Brock commented on the statement of power going into the grid wasn't stated in any of the previous meetings. The power would be going into Dominion's power grid and distributed. Mr. Brock also stated that he understood there will not be a decrease in the local citizen's electric power bill. Mr. Davis answered in the affirmative. Mr. Brock stated that the 8 foot tall buffer plantings doesn't buffer the 18 feet high panels at maximum height. The community will still be able to see the panels. Mr. Brock also stated that the historical Savage's Station solar project sits on 115 acres. The Spotsylvania solar project is just a trail park. Mr. Davis stated that it was a battlefield without any structures.
- Mr. Brock stated that the comprehensive plan written several years ago, was to save the integrity of our way of life in Surry County, namely, forestry and agriculture. Ms. Cheek added by stating Division 4, Section 10-151(a)(1)(e) of the Solar Energy Ordinance says that the layout shall be designed to avoid important historic archaeological and cultural sites. The project may have tried to screen it, but the site does not avoid this important historic site.
- Mr. Wooden stated that the comprehensive speaks of growing the county. The county needs projects that will bring residents into the county, offer jobs. One issue the county has is a decline of population and the school system is the largest employee in the county.

Comments from Mr. Epps:

- The dairy barn, home and shed, owned by Billy and Mr. Epps are not included in the solar farm.
- The project is a hundred yards behind the dairy farm.
- The church line will be moved back.
- Mr. Epps requested additional buffer to cover as much as they could.
- The land was still owned by the Epps and is being leased by the project.
- The project does provide electric and is a good back up for the power plant.
- Mr. Brock asked if the field is being farmed. Mr. Epps stated no and they are waiting until the results of this application for solar project. Mr. Brock asked because they are working on the comprehensive plan on active farmland that was in cultivation. Mr. Epps also stated that land was very sandy, and the crops only does well if it's a rainy season.
- Mr. Epps asked his team if all the land would be zoned M-1. The statement was yes, including the Epps farm and home.
- Mr. Brock stated that each meeting with the applicant, the information changes. He added there is nothing in writing except what was received tonight.
- Mr. Epps was under that impression that only the land inside the buffer would be zoned M-1 and who will pay the M-1 taxes. [Clarified later in the meeting]

PUBLIC HEARING OPEN:

Mr. Steve Johnson of 628 Bacon Castle Trail stated that the project is in his backyard. When will the solar projects stop and the county should pump the brakes?

Mr. John Brock made the following statements:

- He didn't get a knock on his door.
- Looks as if all the solar projects are being dumped here in Surry County.
- It was stated green power and over 4,000 acres of trees are being cut.
- The trees are used to slow down the wind's power.
- Soon we will have to move the houses and settle in the desert.
- Does solar has some type of back-up system.
- What happens when there is little sunlight.
- Are the panel being made in the United States and the readiness of parts.
- Where would the residue from the panel be storage d in case of a hurricane or tornado.
- Would property value decrease.
- The county should have a moratorium on solar projects.

PUBLIC HEARING CLOSED:

Mr. Davis commented on Mr. Johnson's questions that Virginia Electric and Power companies will kick in and generate current. Power from the panels is stored and the panels are capable of withstanding hurricane and tornado winds and that the solar panel are not toxic.

Mr. Newby asked if it was correct that the project did not line up with the comprehensive plan. Mr. Wade stated that the comprehensive plan passed in 2020 does mention prime agricultural land relative to solar energy projects. The Plan currently reads that prime agricultural land should be avoided, and most of the county land is land that is considered prime agricultural land.

Mr. Epps again addressed the Planning Commission. He would like to clear up a few issues. The whole parcel will be taxed M-1, but he and his brother will pay base rate on their homes and the project will pay the higher rate.[Clarification from earlier]

Mr. Wooden stated, based upon the said conversation about the comprehensive plan in this project, which is not in aligning with the comprehensive plan, recommended a denial of Comprehensive Plan Amendment 2022-01. It was seconded by Mr. Newby.

In Favor: (10) Wooden, Berryman, Brock, Lyttle, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.

Opposed: 0

Abstain: 0

Mr. Berryman made a motion recommending to the Board of Supervisors to deny the Rezoning application 2022-01 and was seconded by Mr. Wooden.

In Favor: (9) Wooden, Berryman, Brock, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.

Opposed: 0

Abstain: (1) Ms. Lyttle

Mr. Newby made the motion that the Conditional Use Permit 2022-01 be referred to the Board of Supervisor as a denial and seconded by Mr. Berryman.

In Favor: (9) Wooden, Berryman, Brock, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.

Opposed: 0

Abstain: (1) Ms. Lyttle

Mr. Wooden moved that the Substantially in Accord Determination be defer and second by Mr. Newby.

In Favor: (9) Wooden, Berryman, Brock, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward.

Opposed: 0

Abstain: (1) Ms. Lyttle

2. **Ordinance Amendment 2022-01:** Ordinance to amend Article III, Section 3-1500 et seq., of the Floodplain District of the Surry County Zoning Ordinance, to comply with regulations of the National Flood Insurance Program (NFIP) and adopting the Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) for Surry County

Mr. Wade presented to the Commissioners the ordinance amendment for the floodplain district. It was discussed with FEMA after the receipt of a final flood determination from the Flood Insurance Study and a Flood Insurance Rate Map which was proposed in paper on April 6, 2022. The attached order submitted to the Department of Conservation Recreation as well as the penetrating problem has been reviewed and Mr. Wade recommend approval of the ordinance.

PUBLIC HEARING OPEN

PUBLIC HEARING CLOSED

Mr. Wooden made the motion to recommend approval of the ordinance amendment 2022-01 and was seconded by Mr. Newby.

In Favor: (10) Wooden, Berryman, Brock, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward, Lyttle.

Opposed: 0

Abstain: 0

3. Comprehensive Plan Discussion

- a. Appointment of Comprehensive Plan Subcommittee

Mr. Brock, after requesting volunteers, selected a Comprehensive Plan Committee. Committee members are Ms. Cheek, Mr. Coggin and Mr. Newby

- b. Initiation of Comprehensive Plan relative to Green Energy projects

Mr. Wade stated that there is a need of doing a comprehensive plan as its relatives to green energy. The county now has the gas project and maybe seeing battery storage projects in the future.

Mr. Seward made the motion to go with an initiation of a comprehensive plan relative to energy projects and seconded by Ms. Cheek.

In Favor: (10) Wooden, Berryman, Brock, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward, Lyttle.
Opposed: 0
Abstain: 0

Planning Commission Bylaws

Mr. Wade discussed the Planning Commission bylaws with strikeouts and additions completed by Ms. Powell after staff and the Bylaws subcommittee made suggestions.

Ms. Cheeks suggested that the Pledge of Allegiance follow “the call to order”. Also, to add a complete article about public hearing and comments, which then the public hearing could be placed in the article. Ms. Cheek also questioned on Article 12 about medical condition or disability. Ms. Powell stated that the policy is verbatim from the state code for Article 12.

Mr. Wade discussed the involvement of the Bylaw committee will change how the Planning Commission and staff submit minutes.

Mr. Wooden moved that we adopt the bylaws with the updated amendments to the Pledge of Allegiance and the public hearing. Seconded by Mr. Newby.

In Favor: (10) Wooden, Berryman, Brock, Lunsford, Jenkins, Coggins, Cheek, Newby, Seward, Lyttle.
Opposed: 0
Abstain: 0

PUBLIC COMMENTS: None

STAFF AND COMMISSIONERS' COMMENTS:

Mr. Wade met with the Zoning Committee and discussed agritourism. Ms. Cheek stated that Mr. Wade had asked the committee to look at the Isle of Wight's agritourism ordinance. Ms. Cheek asked if we need an agritourism ordinance here in Surry and that the rules from the state sufficient.

Mr. Wade stated that he spoke with Supervisor. Drewry and that Mr. Drewry drafted Dinwiddie ordinance while he held the position of Dinwiddie's County Attorney staff.

Ms. Seward who is acting project manager for agritourism, spoke on adding use type. There's no text in the current ordinance that addresses having distillery or brewery, , but does state wineries are permitted.

Mr. Wade noted only three events allowed per year. Ms. Steward stated that Dinwiddie or Isle of Wight allots 12 or 36 events per year. Their cap is 300 people before having a conditional use permit.

Ms. Lyttle commended that Surry is a small county and would have limited rescue squad and police. Surry has the motorcycle race, 4th of July and the Nottaway event. There is also the African American heritage event. Chippokes is open for event if anyone would like to go there. Mr. Wade stated that safety was also a concern of sheriff and the emergency management chief.

Mr. Wooden asked about badges for the commissioners and Mr. Wade said he would explore.

Mr. Berryman question a moratorium on solar farms. Ms. Powell stated there is no authority to have a moratorium.

Ms. Cheek asked how tonight's meeting would be transmitted to the Board of Supervisors. Ms. Lyttle stated that Mr. Wade will communicate with Administration. Mr. Brock stated that it was just the motion and the denial. One commissioner stated that in the past a letter was sent.

Ms. Powell stated that she believes there is something in the packet about communication, but usually the Planning Director does give a summary and provides the recommendations of the commission.

ADJOURNMENT: 9:38 PM